

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**STIPULATION AND ORDER
OF SETTLEMENT AND
DISMISSAL**DIAMOND DRUMGOOLE, by her parent and natural
guardian, ANDREA DRUMGOOLE,

Plaintiff,

-against-

THE CITY OF NEW YORK, COMMISSIONER
RAYMOND W. KELLY; and P.O. ROBERT N. FOLEY,
Shield # 24963; and P.O. CHRISTOS DEFTEREOS,
Shield # 20364 the individual defendants sued individually
and in their official capacities,

Defendants.

WHEREAS, plaintiff Diamond Drumgoole, by her parent and natural guardian, Andrea Drumgoole, commenced this action by filing a complaint on or about August 29, 2007, alleging that defendants violated her constitutional rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

WHEREAS, plaintiff has authorized her counsel to settle this matter on the terms set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed with prejudice, and without costs, expenses, or fees except as provided for in paragraph "2" below.

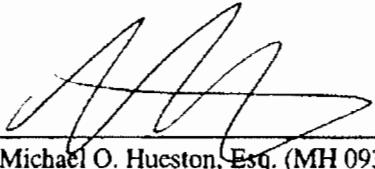
2. The City of New York hereby agrees to pay plaintiff the sum of **Twenty Thousand Dollars (\$20,000.00)** in full satisfaction of all claims, inclusive of claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff agrees to the dismissal of all claims against the City of New York and all individually named defendants, and to release all defendants and any present or former employees or agents of the City of New York from any and all liability, claims, or rights of action that have or could have been alleged by plaintiff in this action arising out of the events alleged in the complaint in this action, including claims for costs, expenses and attorney's fees.
3. Settlement of this action is conditioned on compliance with the provisions set forth in Rule 83.2(a) of the Local Civil Rules of this Court ("Settlement of Actions by or on Behalf of Infants or Incompetents") and Rule 1207 et seq. of the Civil Practice Laws and Rules for the State of New York.
4. Plaintiff shall execute and deliver to defendant City of New York's attorney all documents necessary to effect this settlement, including, without limitation, a General Release and An Affidavit of No Liens based on the terms of paragraph "2" above.
5. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules,

regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

6. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.
7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

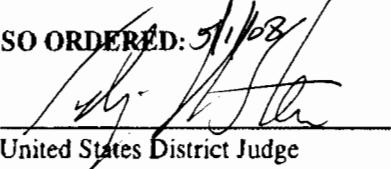
Dated: New York, New York
April 22, 2008

Michael O. Hueston, Esq.
Attorney for Plaintiff
350 Fifth Avenue, Suite 4810
New York, New York 10118

By: 
Michael O. Hueston, Esq. (MH 0931)

MICHAEL A. CARDOZO
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New York, New York 10007
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By: 
Robyn N. Pullio (RP 7777)
Assistant Corporation Counsel

SO ORDERED: 5/1/08

United States District Judge